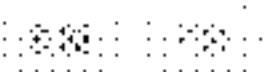


## ATIP FAQ: General

Available In: 

### What should I do if I receive a request?

You must send it immediately to the Access to Information and Privacy (ATIP) Office, which is in charge of handling all requests.

### Why is CBC/Radio-Canada now subject to ATI? How did this come about? What does the Act seek to do?

In December 2006, the *Federal Accountability Act* received royal assent. This legislation contains a number of provisions affecting federal government departments and federal Crown Corporations, including CBC/Radio-Canada.

Among other things, the *Federal Accountability Act* amended the *Access to Information Act* (the "ATIA") to include those federal Crown Corporations not previously subject to the ATIA. As a result, CBC/Radio-Canada came under the ATIA on September 1, 2007.

The ATIA gives Canadians, permanent residents, and other individuals and businesses in Canada the right of access to information held in the records of federal government departments and Crown Corporations.

While any record can be requested, CBC/Radio-Canada is covered by certain exemptions and exclusions. Under the ATIA, CBC/Radio-Canada has a specific and unique exclusion, the "CBC exclusion." Under this exclusion, "any information that relates to CBC/Radio-Canada's journalistic, creative or programming activities, other than information that relates to its general administration" is not subject to access.

### I've had to provide recommendations for ATI requests in the past. How is this requirement different?

Up until September 1, 2007, CBC/Radio-Canada responded to requests as a third party. The new provisions permit direct access to CBC/Radio-Canada records. A central ATIP Office, within the Corporate Secretariat, manages all requests.

### When does this come into effect?

CBC/Radio-Canada became subject to the Access to Information Act on September 1, 2007. This means that, as of this date, requests may be made for access to any records held by the Corporation at the time the request is received. Therefore, records created before September 1, 2007, may be requested.

### Does it start from September or is it retroactive?

CBC/Radio-Canada became subject to the *Access to Information Act* on September 1, 2007. This means that, as of this date, requests may be made for access to any records held by the Corporation at the time the request is received. Therefore, records created before September 1, 2007, may be requested. Since older records may be requested, in this sense the application of the Act is retroactive.

### Could this requirement be changed under a new government down the road?

The new ATIA provisions are now law. To change them, a new government would have to change the law.

### What does Access to Information mean for CBC/Radio-Canada?

It means that access may be requested to information / records held by the Corporation, regardless of when the records were created.

While any record can be requested, CBC/Radio-Canada is covered by certain exemptions and exclusions.

For information about these exceptions, click [ATIP Exemptions and Exclusions](#) and [ATIP FAQ: Exemptions and Exclusions](#) in the **Related Resources** section at the bottom of the page.

### Is there a fee for making an access to information request?

A \$5.00 CAD fee must accompany all formal access to information requests. This fee includes five (5) free hours of search directly associated with the request; once that limit has been reached, the requester must pay an additional \$10.00 CAD per hour, if s/he is interested in obtaining the results of further search.

### Will this create new jobs or simply become extra work for current employees?

An ATIP Office has already been created; once fully staffed, it will consist of a manager and two analysts. Depending upon the volume of requests received, further staff may be added at a later date.

To assist in the overall management of access to information and privacy at CBC/Radio-Canada, each department has an ATIP Liaison function, provided through existing resources. It is, however, the responsibility of each individual employee at CBC/Radio-Canada to retrieve and provide

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any required information upon request.

## Won't this give other broadcasters a competitive edge?

CBC/Radio-Canada has an important exclusion, called the CBC exclusion, which is meant to protect information related to its journalistic, creative and programming activities. CBC/Radio-Canada is also entitled to the usual ATI exemptions with respect to the protection of commercially sensitive or competitive information.

For information about these exceptions, click [ATIP Exemptions and Exclusions](#) and [ATIP FAQ: Exemptions and Exclusions](#) in the **Related Resources** section at the bottom of the page.

## Who has to track down the records?

It's up to the relevant department to put in the time needed to find the requested records. This research must be coordinated by the ATIP Liaison in the department concerned. This person will act as liaison for the ATIP Office and the department doing the research.

## What penalties could I face if I refuse to cooperate?

The Act provides that no person shall, **with intent to deny a right of access** under this Act:

- Destroy, mutilate or alter a record
- Falsify a record or make a false record
- Conceal a record
- Direct, propose, counsel or cause any person in any manner to do anything mentioned above

There are serious consequences for violating the above provisions. The Act provides for fines of up to \$10,000 and/or up to two (2) years' imprisonment.

## Can I destroy records?

The Act does not impose the obligation to retain everything. That means you are allowed to destroy so-called "transitory" records as you would have done previously in the normal course of business.

For a definition of business and transitory records, click [Understanding Business and Transitory Records](#) in the **Related Resources** section at the bottom of the page.

Business records may be destroyed in the normal course of business according to the records retention schedule. For more information, click [Records and Information Management Retention Schedule](#) in the **Related Resources** section at the bottom of the page.

National archivist support for our classification is currently being sought.

**Important:** Once a request is received, however, if a record that could have been destroyed still exists, *it must be provided to the ATIP office and must not be destroyed.*

## How should I file my records?

CBC/Radio-Canada has a Records and Information Management policy with which you should become familiar. This policy covers the maintenance of records from their creation to their disposal or permanent retention. An updated classification is being prepared and will be published as soon as available.

To view the entire policy, click [Policy 2-9-1: Records and Information Management](#) in the **Related Resources** section at the bottom of the page.

For useful tips on managing your records and e-mails, click [Tips and Practices for Managing Your Records](#) or [Common GroupWise FAQs about E-mail](#) in the **Related Resources** section at the bottom of the page.

## Do you have any advice for storing our personal notes?

Make certain that your notes will withstand scrutiny. Personal notes that are used in the course of CBC/Radio-Canada business are accessible, unless they relate to journalistic, creative or programming activities. As a requestor could potentially request everything on a CBC/Radio-Canada computer, including personal records, personal notes not used in the course of CBC/Radio-Canada business (such as notes to family) would be protected as personal information but would need to be reviewed by the ATIP Office to confirm their personal nature. For this reason, you should remove your strictly personal files from your computer and store them on a device that you have personally purchased, whether it be a memory stick, CD or other device. Keep your personal notes outside CBC/Radio-Canada or at least separate from your work information. Personal notes that have not been shared with others may in certain circumstances be exempted.

For a definition of personal information, click [Understanding ATIP Exemptions and Exclusions](#) in the **Related Resources** section at the bottom of the page and review **Section 18**.

## **What role does Audience Relations play?**

Official requests filed under the Act differ from audience inquiries. The Act aims to complement rather than replace existing communication channels. You can therefore continue to respond to audience inquiries as usual. It's essential, however, that you send all formal Access to Information requests (which must be made in writing) to the ATIP Office.

## **With the *Access to Information Act* taking effect, what are CBC/Radio-Canada's obligations with respect to the Library and Archives Act?**

CBC/Radio-Canada must apply to the National Library and Archives for a disposition authority. This will allow the Archives to determine which records it is interested in, and we would then be able to apply the normal retention schedule to our remaining records. Business records in the possession of CBC/Radio-Canada after September 1, 2007, must not be destroyed until we have received the disposition authority. Transitory records, however, can be dealt with as usual.

## **Should we keep drafts of documents?**

Yes. Drafts, much like final versions of a document, are subject to the Act.

## **What happens if we can't find the requested documents?**

In the event that a document does not exist, CBC/Radio-Canada will inform the requesting party accordingly.

## **Can I find out who made a request, and the reason the originator wants certain documents?**

The requestor's motives and identity have no bearing on the administration of the Act. Any Canadian citizen or resident of Canada has the right to access information under the Act, regardless of the reason for the request. The ATIP Office will receive the requestor's name, but will not release it to the unit in question, because the requestor's identity is considered to be personal, and therefore confidential, information.

## **If the information requested does not readily exist, but could be put in a document to answer the request, do I create this document?**

No. The Act is clear. It is about existing records and there is no requirement to create records to satisfy a request.

*Need more information?*

For more information about Access to Information and Privacy (ATIP), contact Peter Hull by e-mail at [peter.hull@cbc.ca](mailto:peter.hull@cbc.ca) or by phone at 613-288-6161.

## Corporate Secretariat

### Policy 2.9.5: Access to Information

EFFECTIVE DATE: September 1, 2007

RESPONSIBILITY: Chief Legal Officer

## PURPOSE

The *Access to Information Act* describes its purpose as follows:

*The purpose of this Act is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government.*

The term *record* is defined as *any documentary material, regardless of medium or form.*

## STATEMENT

It is the policy of CBC/Radio-Canada:

- to carry out the requirements of the *Access to Information Act* in a manner consistent with the requirement that access to records should be granted to Canadian citizens and persons resident in Canada unless a specific exclusion or exemption applies,
- to apply CBC/Radio-Canada's specific exclusion with a view of protecting CBC/Radio-Canada journalistic, programming and creative independence;
- when an exemption should be considered, to apply exemptions in **the most appropriate manner** permitted by law;
- to ensure effective and consistent administration of and compliance with the requirements of the *Access to Information Act* and Regulations within CBC/Radio-Canada;
- that the President and CEO be responsible for administering the *Access to Information Act* and Regulations, setting out requirements for processing access requests, designating an official to coordinate the duties imposed by the legislation (the *Access to Information Act* and Regulations).

- Privacy (ATIP) Coordinator) reporting to the President and CEO;
- that the ATIP Office be responsible for the handling of ATIP requests pursuant to the delegation of authority granted by the President and CEO, acts as a liaison between CBC/Radio-Canada and the Office of the Information Commissioner and reports to the ATIP Coordinator;
- that the functions of the ATIP Office be confidential;

## **APPLICATION**

This policy applies to all employees of CBC/Radio Canada.

## **RESPONSIBILITY**

All employees are responsible for the records they create or maintain. When requested by the ATIP Office, employees shall conduct a diligent search for records requested and submit electronic copies of them to the ATIP Office.

The ATIP Coordinator is responsible for supervising compliance with the legislation and for initiating procedures, guidelines and schedules developed to give effect to this policy.

The ATIP Coordinator is accountable for CBC/Radio-Canada's policies and practices with respect to compliance with the Access to Information Act, and is the individual to whom complaints and inquiries can be forwarded.

## **REFERENCES**

- *Access to Information Act*
- *Privacy Act*
- *Policy 2.9.1: Records and Information Management*

## **PERSON RESPONSIBLE FOR INTERPRETATION AND APPLICATION**

Chief Legal Officer

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## **PROCEDURES UNDER THE ACCESS TO INFORMATION POLICY**

### **Delegation**

When the President and CEO of CBC/Radio-Canada chooses to delegate responsibilities under the Act, CBC/Radio-Canada will have in place a current Delegation Order, signed by the President and CEO,

authorizing which responsibilities may be carried out by particular officials. The powers, duties and functions that may be delegated are as specified in the Act.

### **Accounting for Information Holdings**

In order to support the Designated Minister in producing the publications required by the Act, CBC/Radio-Canada will provide descriptions of its organization and information holdings to Treasury Board Secretariat, in accordance with government-wide standards.

### **Processing Requests**

CBC/Radio Canada has established an ATIP Office to ensure that requests are handled in a centralized and consistent manner and that proper factors are considered in applying the provisions of the *Access to Information Act* to requested records. The ATIP Office will ensure that a system for processing requests accounts for all relevant deliberations and decisions taken concerning each request.

### **Confidentiality of the ATIP Office**

No ATIP officer shall reveal the content of any records requested to individuals not concerned with the request unless required to do so pursuant to a court decision, this policy and its guidelines or the law.

Save and except pursuant to a court decision, this policy and its guidelines or the law, no ATIP officer may be required to reveal the identity of a requestor or the content of confidential correspondence with a requestor.

To protect the ATIP function, it is the policy of CBC/Radio-Canada that no ATIP officer will be required by CBC/Radio-Canada to provide evidence during any investigation, arbitration or litigation which has as its focus the content of records that have been reviewed by the ATIP officer unless the investigation or litigation is concerned with the application of the *Access to Information Act* or *Privacy Act*.

### **Review of Records**

The *Access to Information Act* states: (in section 68.1)

This Act does not apply to any information that is under the control of the Canadian Broadcasting Corporation that relates to its journalistic, creative or programming activities, other than information that relates to its general administration.

CBC/RadioCanada will review requests to determine whether the exclusion set out in s.68.1 applies. Where it is clear from the text of the request that the exclusion applies, the request will be refused with no

review of the requested records. Where it is unclear from the text of the request whether or not the exclusion applies, CBC/Radio Canada will review the relevant records to determine if an exclusion or exemption applies to some or all of the records. Where possible, CBC/Radio-Canada will sever from the records any portion to which an exclusion or exemption applies and release the rest of the records.

### **Indication of Exclusion or Exemption**

In order that applicants are informed of the reason(s) for the refusal of access to a record or part of a record, CBC/Radio-Canada will refer to the specific provisions of the legislation in justifying an exclusion or exemption.

### **Fees**

CBC/Radio-Canada shall recover fees chargeable under the Act for work done in processing access to information requests, except where waiver of fees in the public interest may apply. CBC/Radio-Canada will:

- refund any portion of a deposit requested for work to be undertaken where the amount exceeds the actual charges levied; and
- reduce any fees payable for producing a computer record where the actual cost of producing the record is less than the fee prescribed in the regulations.

### **Forwarding Requests to the ATIP Office**

All access to information requests that are received within CBC/Radio-Canada must be forwarded to the ATIP Office immediately.

### **Operating Principles**

Records should not be removed from CBC/Radio-Canada premises or destroyed without proper authorization.

All questions related to the interpretation and application of this policy should be directed to the ATIP Coordinator in Ottawa at 613 288-6165.

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